

# LAWFARE

When Law Becomes a Weapon

# Introduction

International law was designed to restrain power and facilitate cooperation among states. Today, however, it has become an instrument of power itself. Law is no longer simply invoked to resolve disputes; it is weaponized to pressure adversaries, constrain strategic options, and advance geopolitical objectives. This phenomenon, known as “lawfare,” represents a fundamental shift in how states compete in an interdependent world. From sanctions regimes and regulatory capture to strategic tribunal cases and treaty manipulations, law now operates as a frontline tool of state power. Understanding lawfare is essential for policymakers navigating an increasingly contested international order where legal instruments can accomplish what once required military force.

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# What is Lawfare?

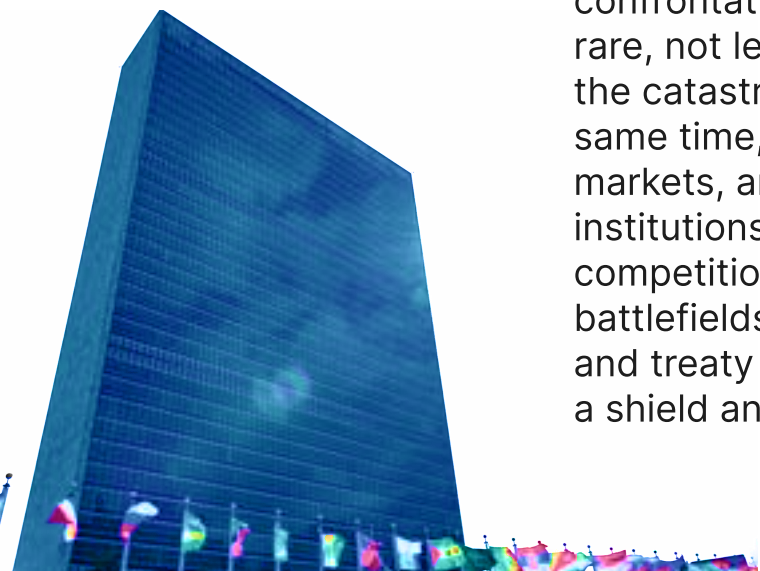
Lawfare refers to the strategic use of law as a weapon to achieve objectives that might otherwise require military means or diplomatic concessions. As Harvard Law School's David Kennedy observed,

“Law can often accomplish what might once have been done with bombs and missiles: seize and secure territory, send messages about resolve and political seriousness, even break the will of a political opponent.”

To Major General Charles Dunlap of the United States Air Force, it is “a strategy of using, or misusing, law as a substitute for traditional military means to achieve an operational objective.”

Lawfare is not simply about states invoking legal arguments in disputes. It involves the deliberate instrumentalization of legal processes, norms, and institutions to achieve strategic objectives. This encompasses the selective invocation of international law to justify contested actions, the manipulation of multilateral institutions to isolate adversaries, the weaponization of economic regulatory frameworks, and the strategic use of international courts and tribunals to shape narratives and constrain opponents.

This phenomenon reflects deeper structural changes in international relations. Direct military confrontation between major powers has become rare, not least because of nuclear deterrence and the catastrophic costs of great power wars. At the same time, economic interdependence, globalized markets, and a dense network of international institutions have created new arenas for competition. These arenas exist not on traditional battlefields but in legal forums, regulatory bodies, and treaty negotiations. Law has thus become both a shield and a sword in contemporary statecraft.



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# Architecture of Lawfare: 7 Platforms

## 1. Stabilizer and Balancer

International law's multifaceted role in global governance creates multiple platforms for lawfare. Understanding these platforms reveals how states leverage law strategically across different domains.

International law establishes foundational principles for peaceful coexistence: territorial sovereignty, non-intervention, sovereign equality, and the prohibition of the use of force except in self-defense or with UN Security Council approval. However, powerful states increasingly reinterpret these principles to create strategic advantages. The "unable or unwilling" doctrine, for instance, allows states to conduct military strikes in other territories when the host state purportedly cannot or will not suppress non-state actors deemed threatening. This interpretation bypasses diplomatic measures and collective security mechanisms, effectively expanding the scope of permissible force in ways that many states and legal scholars consider incompatible with the UN Charter.



## 2. Pressurizer and Compliance Generator

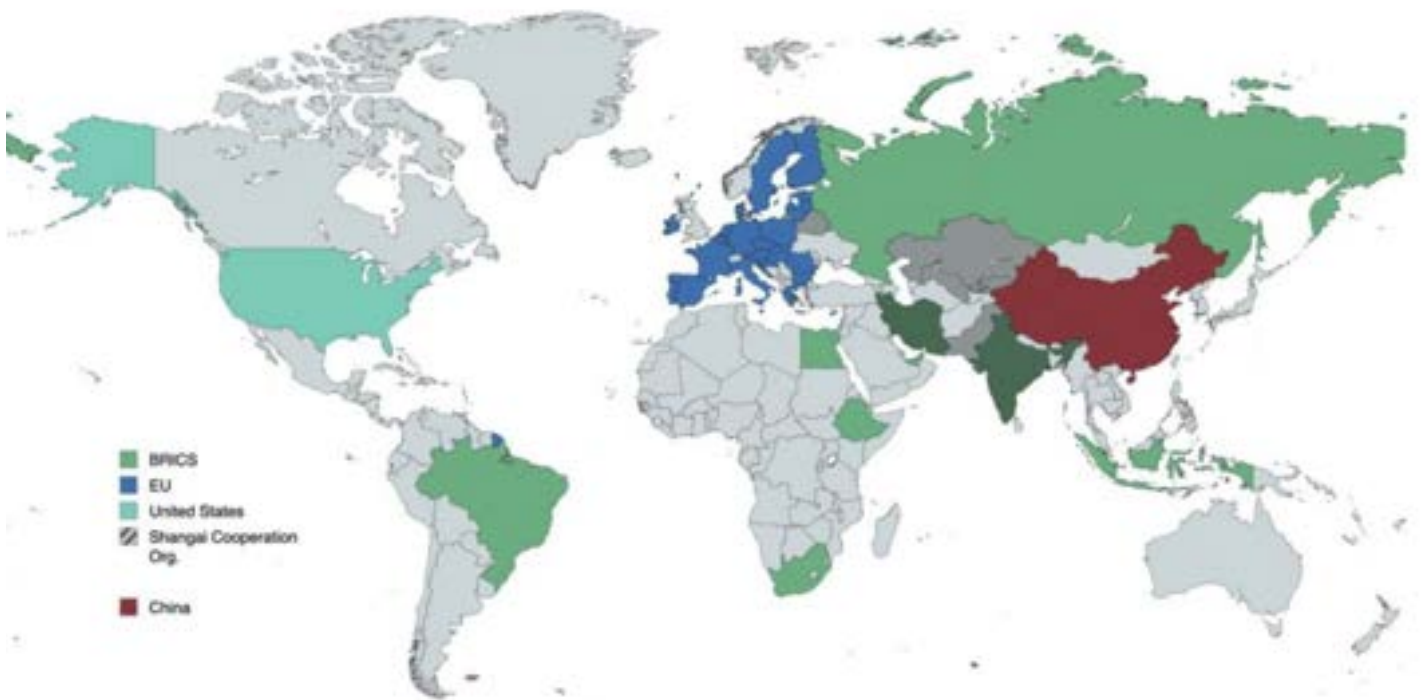
International institutions wield significant power to pressure states into compliance through sanctions, embargoes, grey-listing, and conditionality mechanisms. The UN Security Council can impose binding sanctions under Chapter VII. The Financial Action Task Force can grey-list or black-list countries for alleged deficiencies in anti-money laundering and counter-terrorism financing frameworks. The International Monetary Fund and World Bank can attach conditions to loans that effectively dictate domestic policy. These mechanisms, while formally multilateral, are often dominated by powerful states that use them to advance strategic objectives.

 Algeria	 Monaco
 Angola	 Mozambique
 Bolivia	 Namibia
 Bulgaria	 Nepal
 Burkina Faso	 Nigeria
 Cameroon	 South Africa
 Côte d'Ivoire	 South Sudan
 Democratic Republic of the Congo	 Syria
 Haiti	 Venezuela
 Kenya	 Vietnam
 Laos	 Virgin Islands (UK)
 Lebanon	 Yemen

FATF Grey List Countries

## 3. Connector and Standard Setter

International bodies develop technical standards and regulatory frameworks that govern everything from telecommunications to financial systems. Lawfare in this domain involves capturing standard-setting processes to advance national interests. The United States promotes its cybersecurity frameworks through bodies like the International Telecommunication Union, while China pushes for recognition of its national standards in artificial intelligence and telecommunications through alternative platforms. Control over standard-setting translates into economic advantages, regulatory influence, and technological leadership. States that shape standards early gain first-mover advantages that can lock in their preferences for decades.



Regional organizations also serve as norm-setting platforms. The European Union's General Data Protection Regulation and Artificial Intelligence Act establish regulatory frameworks that influence global standards far beyond Europe's borders. Meanwhile, organizations like the Shanghai Cooperation Organisation and BRICS develop alternative frameworks that challenge Western-dominated systems.

#### 4. Narrative Supporter and Enhancer

Legal arguments provide legitimacy to controversial actions and shape international narratives. States invoke international humanitarian law to justify military operations, frame conflicts in terms of self-defense rather than aggression, and use international forums to build coalitions. Legal victories at international courts, even if largely symbolic, bolster diplomatic positions and influence public opinion. Conversely, legal defeats can delegitimize state actions and embolden opposition.

#### 5. Dispute Resolution and Litigation

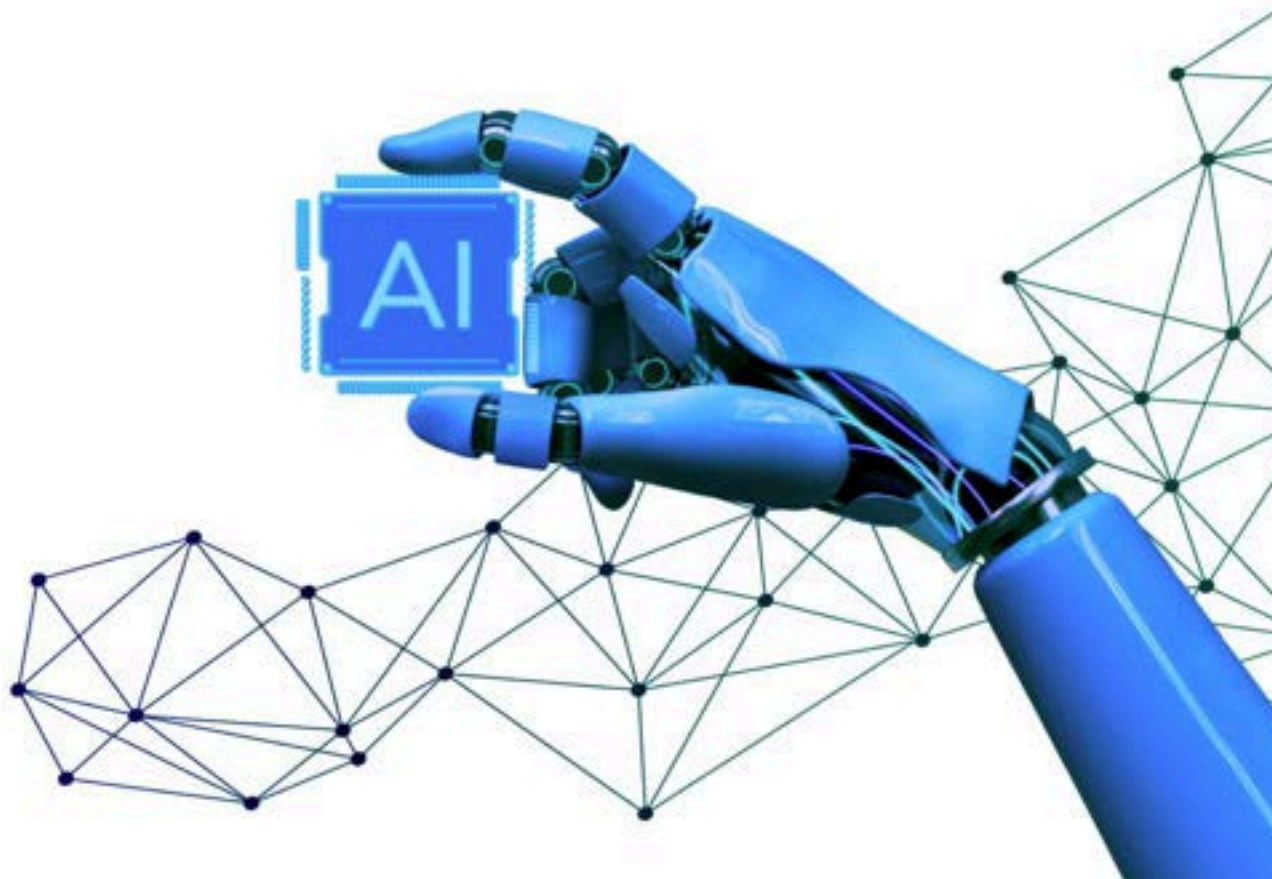
International courts and tribunals serve not only as mechanisms for judicial resolution but as battlefields for legal and political contestations. States strategically file cases to advance narratives, build diplomatic pressure, and constrain adversaries. Equally important is the strategic decision not to participate in proceedings, rejecting tribunal authority while avoiding the political repercussions of formal treaty withdrawal.

## 6. Rights Provider and Cooperation Facilitator

International human rights law and humanitarian law are invoked by states and non-state actors as both shields to protect vulnerable populations and swords to delegitimize adversaries. This dual function opens the door to selective and politicized applications. States that commit serious violations may deflect criticism by pointing to the violations of their accusers, while powerful states invoke human rights concerns to justify interventions or sanctions that serve broader geopolitical interests.

## 7. Future Challenges Predictor

Emerging domains such as artificial intelligence governance, cyberspace regulation, climate liability, and outer space law are becoming new fronts for lawfare. States and regional organizations are racing to establish regulatory frameworks in these areas, recognizing that the rules established now will have lasting implications for technological leadership, economic competitiveness, and national security. The intense legal competition between the United States, China, Europe, and Russia to assert early advantages in rule-making and institutional development reflects the strategic value of shaping norms in nascent domains.



# The Mechanisms of Lawfare

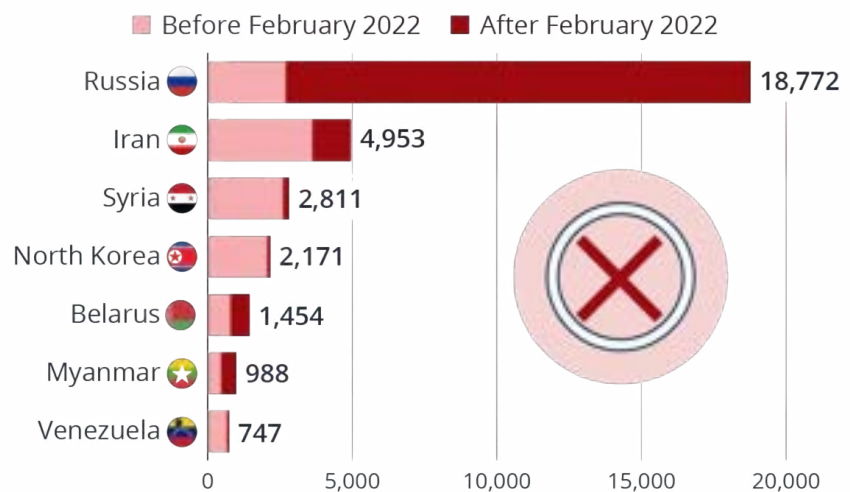
## Sanctions and Listing Regimes

Lawfare operates through specific mechanisms that exploit the structure and procedures of international law. Understanding these mechanisms reveals how states translate legal instruments into strategic advantages.

Sanctions have become a preferred tool for exerting pressure without resorting to military force. The UN Security Council maintains consolidated lists of individuals and entities subject to travel bans, asset freezes, and arms embargoes. Designation to these lists can devastate reputations, freeze financial assets globally, and isolate individuals and organizations from international commerce. However, listing procedures are often opaque, dominated by powerful states, and difficult to challenge. States use listing as a tool to target adversaries, build pressure for compliance, and shape international narratives about terrorism, proliferation, or other threats.

## The World's Most-Sanctioned Countries

Number of currently active sanctions by target country



Data current as of December 15, 2023

Source: Castellum.AI





# Standard-Setting Capture

Technical bodies such as the Financial Action Task Force, International Organization for Standardization, International Telecommunication Union, and Basel Committee on Banking Supervision develop standards that govern critical infrastructure and regulatory frameworks. Participation in these bodies allows states to shape global norms in ways that align with national security priorities. Powerful states actively work to establish their national standards as international benchmarks, creating regulatory advantages and locking in technological preferences.

Financial Action Task Force establishes global standards for anti-money laundering and counter-terrorism financing. While formally multilateral, the organization is dominated by Western states and operates through peer review mechanisms that can impose significant economic costs on non-compliant countries. Grey-listing by the FATF can devastate economies by restricting access to international finance and trade.



## Mutual Legal Assistance and Extradition

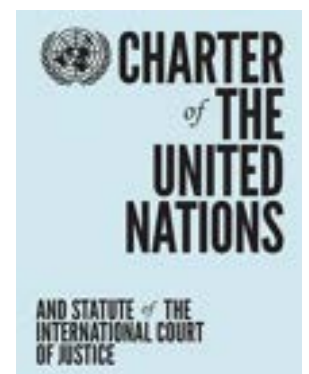
Mutual legal assistance treaties and extradition agreements facilitate cross-border legal cooperation. However, these mechanisms can be weaponized to pursue adversaries, exert diplomatic pressure, and build legal cases selectively. States use letters rogatory to seek evidence in criminal investigations, pressure counterparts to cooperate under counter-terrorism frameworks, and leverage domestic legal proceedings to advance international narratives. The selective application of these mechanisms reflects geopolitical considerations as much as legal principles.

## Selective Engagement with Tribunals

States strategically decide when to engage with international courts and when to reject their authority. Filing cases at the International Court of Justice or regional human rights courts serves multiple purposes: building diplomatic pressure, shaping international narratives, and constraining adversaries' strategic options. Equally significant is the decision not to participate in proceedings. By rejecting tribunal authority, states contest the legitimacy of legal processes while avoiding the political repercussions of formal treaty withdrawal. This approach allows states to maintain formal commitments to international law while selectively disregarding inconvenient rulings.

## Reinterpretation of Foundational Norms

Powerful states reinterpret foundational principles of international law to create legal justifications for controversial actions. The "unable or unwilling" doctrine, for instance, expands the scope of self-defense to permit preemptive strikes in third-party territories. The concept of "humanitarian intervention" has been invoked to justify military action without Security Council authorization. These reinterpretations stretch legal concepts in ways that many states and scholars consider incompatible with the UN Charter, but they create permissive legal frameworks that serve strategic objectives.



# India's Multi-Decade Lawfare Campaign Against Pakistan

India's sustained lawfare campaign against Pakistan offers an instructive case study in how states systematically leverage legal instruments to achieve strategic objectives. This campaign has evolved over decades, adapting to changes in international law and exploiting shifts in global counter-terrorism frameworks.

## *The Pre-9/11 Context: Self-Determination and Wars of National Liberation*



In 2016, the Permanent Court of Arbitration ruled that China had violated the Philippines' rights under the United Nations Convention on the Law of the Sea by interfering with Philippine vessels and building artificial islands in the Philippines' exclusive economic zone. China rejected the ruling entirely, invoking "historic rights" over the waters that predate modern international law. By refusing to participate in the arbitration and subsequently dismissing its conclusions, China showcased how states can use selective non-engagement with legal processes as a strategic tool, contesting the authority of international tribunals while avoiding the political repercussions of formal withdrawal from the underlying treaty.

## *The Paradigm Shift: 9/11 and the Transformation of Counter-Terrorism Law*

The September 11, 2001 attacks fundamentally transformed international counter-terrorism law and created new opportunities for lawfare. UN Security Council Resolutions 1267 and 1373 established binding obligations on all member states to prevent and suppress terrorism financing, freeze assets of designated entities, and cooperate in investigations and prosecutions. The Financial Action Task Force developed Special Recommendations on Terrorism Financing that created enforceable global standards.

India recognized the strategic potential of this new legal architecture. Rather than continuing to frame the Kashmir conflict in terms of self-determination versus sovereignty, India began to systematically characterize it as state-sponsored terrorism. This reframing aligned with the post-9/11 international consensus and allowed India to leverage counter-terrorism mechanisms against Pakistan.

## *Building the Narrative: 2001 Parliament Attack*

The 2001 attack on India's Parliament marked the beginning of India's systematic legal strategy. India attributed the attacks to Lashkar-e-Taiba and Jaish-e-Mohammed, alleging Pakistani sponsorship. The United States designated both entities as Foreign Terrorist Organizations, lending international credibility to India's narrative. India recalibrated its strategic response by focusing on highlighting specific Pakistan-based entities and individuals, building a cumulative case for state-sponsored terrorism.

## *2008 Mumbai Attacks: Consolidating the Legal Strategy*

The 2008 Mumbai attacks reinforced and validated India's narrative internationally. India deployed a sophisticated legal strategy that combined domestic prosecutions, international cooperation mechanisms, and diplomatic pressure. India successfully advocated for Hafiz Saeed's placement on the UN Security Council's 1267 sanctions list, sent letters to Pakistan invoking obligations under UNSC Resolution 1373, and pressured Pakistan to initiate domestic cases against designated entities and individuals. The United States placed a bounty on Hafiz Saeed in 2012, and the US, EU, and UK continued to urge Pakistan to implement UN Security Council resolutions and sanction perpetrators.



## *Refining the Strategy: Pathankot, Uri, and Pulwama*



Each subsequent incident—Pathankot, Uri, Pulwama—reinforced the established narrative and allowed India to refine its legal strategy. India engaged the mechanism of letters rogatory to seek evidence in criminal investigations, urged Pakistan to cooperate under UNSC Resolution 1373, kept the Permanent Five members of the Security Council informed of Pakistan's progress in responding, and pursued aggressive diplomacy in the UNSC 1267 Committee for listing of individuals. After the Pulwama attack in 2019, India succeeded in listing Maulana Masood Azhar. India also relied on the concept of self-defense for its surgical strikes and Balakot strikes, drawing on United States and Israeli state practice and legal arguments. This invocation of self-defense, while contested by many legal scholars, reflected India's strategic use of legal concepts to legitimize military action.

## *The FATF Dimension: Economic Warfare*

The Financial Action Task Force became a critical instrument of economic warfare against Pakistan. Pakistan was grey-listed by FATF on three occasions, forcing it to enact multiple laws and dozens of administrative instruments. FATF subjected Pakistan to intense scrutiny of its technical compliance with all FATF recommendations, the effectiveness of its legal and regulatory regimes to combat terrorism financing and money laundering, the performance of law enforcement and regulatory agencies, and the status of criminal cases, especially concerning entities on the 1267 sanctions list.

India and the United States took lead roles in grilling Pakistan at FATF plenary sessions, with India lobbying for Pakistan's black-listing. FATF imposed a 27-point action plan on Pakistan that included requirements to ensure prosecution and conviction of designated entities and individuals, seizure of their properties, cutting off their funding, and placing permanent mechanisms for asset management. The economic repercussions of FATF's grey-listing amounted to approximately USD 38 billion in lost investment and trade.

## *Strategic Advantages Achieved*

India's multi-decade warfare campaign has achieved significant strategic advantages. Pakistan faces extensive sanctions listings, with over 100 individuals and entities on the UNSC 1267 consolidated list. The consistent narrative of state-sponsored terrorism, reinforced through each incident and legal maneuver, has constrained Pakistan's diplomatic space and damaged its international reputation. Economic pressure through FATF has imposed substantial costs and forced domestic legal reforms. India's invocation of self-defense for cross-border strikes has created permissive frameworks for future military action.

## *Recent Developments and Narrative Shifts*

Recent developments suggest potential vulnerabilities in India's narrative. Operation Sindoor and India's own alleged involvement in targeted killings abroad—in Canada, Australia, and elsewhere—have raised questions about India's adherence to international law. These developments create opportunities for counter-lawfare strategies that highlight contradictions in India's legal positions and expose its selective invocation of international norms.



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# Broader Consequences of Lawfare

The proliferation of lawfare carries significant implications for the international legal order. It contributes to the erosion of foundational principles, the paralysis of multilateral institutions, the fragmentation of legal frameworks, and the weaponization of rights. Smaller states are particularly vulnerable to lawfare, as they may find themselves trapped between competing legal regimes imposed by great powers. The risk is that international law may become increasingly fragmented, politicized, and unreliable as a framework for cooperation.

Lawfare creates compounding vulnerabilities for targeted states. A state facing sanctions listings may struggle to access international finance, constraining its economic development and forcing domestic policy changes. Grey-listing by FATF can devastate economies by restricting trade and investment. Negative rulings by international tribunals can embolden adversaries and weaken diplomatic positions. The cumulative effect of these legal pressures can be as debilitating as military defeat, yet lawfare operates below the threshold of armed conflict and avoids the international opprobrium associated with overt aggression. For states engaged in lawfare, the proliferation of these tactics creates risks as well. Overuse of sanctions can reduce their effectiveness and encourage the development of alternative financial systems. Selective invocation of human rights norms undermines their universal character and invites accusations of hypocrisy. Reinterpretation of foundational principles erodes the normative foundation of international law, creating permissive frameworks that can be exploited by adversaries. The long-term consequences of lawfare may undermine the very legal order that powerful states rely upon to maintain influence.

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# Counter-Lawfare Strategies

States targeted by lawfare must develop proactive strategies to resist legal pressure and shape international narratives. Effective counter-lawfare requires both defensive measures to mitigate vulnerabilities and offensive strategies to exploit adversaries' contradictions.

## Revisiting Counter-Terrorism Frameworks

Post-9/11 counter-terrorism frameworks have been instrumental in mislabeling freedom struggles as terrorism. These frameworks need to be revisited to ensure they are not used to justify occupations or deny rights. The global discourse must shift from counter-terrorism to self-determination, emphasizing the legitimate right of occupied peoples to resist occupation through political and non-violent means. International forums, particularly the Global South and Muslim platforms, provide opportunities to challenge the misuse of counter-terrorism regimes and advocate for reforms that uphold international human rights and humanitarian law.

## Leveraging Multipolarity

Changing international dynamics and support from emerging powers create opportunities to advance alternative legal frameworks. Multipolarity allows states to build coalitions that challenge Western-dominated institutions and advocate for more equitable and representative governance structures. Regional organizations and issue-specific groupings can serve as platforms for developing consensus on norm creation and resisting lawfare pressure.



## Targeting Adversaries Through Legal and Diplomatic Actions

Counter-lawfare strategies should include offensive measures that expose adversaries' violations of international law. Mutual legal assistance treaties and international cooperation mechanisms can be leveraged to investigate and prosecute adversaries' actions that violate sovereignty. Highlighting adversaries' involvement in targeted killings, espionage activities, and other violations through international channels can shift narratives and create diplomatic pressure. Positioning oneself as a responsible state utilizing lawful channels to hold rogue actors accountable enhances credibility and builds international support.

## Building Legal Capacity and Expertise

Effective counter-lawfare requires substantial legal capacity. States must invest in training legal experts, building institutional knowledge of international law, and developing strategic approaches to legal contestation. This includes understanding the procedures and precedents of international tribunals, mastering the technicalities of sanctions regimes and standard-setting bodies, and cultivating expertise in emerging legal domains. Legal capacity is not simply about responding to adversaries' actions; it is about shaping the legal environment proactively.

## Narrative Strategies

Legal arguments are most effective when accompanied by compelling narratives that resonate with international audiences. Counter-lawfare strategies must include sophisticated public diplomacy that positions the state as rational, responsible, and committed to peace and justice. Highlighting adversaries' contradictions, exposing selective invocations of international law, and building coalitions around shared principles can shift international opinion and reduce the effectiveness of adversaries' legal tactics.

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# Conclusion: From Reactive to Strategic

Lawfare signifies fundamental changes in how states compete and exert influence in an interdependent world. It is neither entirely new nor inherently illegitimate; states have always used legal arguments strategically. What has changed, however, is the scale, sophistication, and centrality of legal instruments in contemporary statecraft. The consequences are troubling. The erosion of foundational norms, the paralysis of multilateral institutions, the fragmentation of legal frameworks, and the weaponization of rights all threaten to undermine the predictability and legitimacy that international law requires to function effectively. Yet international law remains indispensable. No alternative system exists for managing global interdependence, resolving disputes peacefully, or addressing transnational challenges such as climate change, pandemics, and nuclear proliferation.

The future will depend on whether law can be reclaimed as a framework for cooperation or whether it continues to be deployed as a battlefield tactic. This will require renewed commitment to multilateralism, reforms to make international institutions more representative and effective, and political will to resist the temptation to weaponize law purely for short-term strategic gains. Policymakers must recognize that while lawfare might offer tactical advantages, its proliferation carries systemic risks that ultimately serve no state's long-term interests.

For states targeted by lawfare, the challenge is not to eliminate legal contestation, which is inevitable in a diverse international system, but to shift from reactive responses to proactive strategies. This means building legal capacity, participating strategically in standard-setting processes, leveraging multipolarity to build coalitions, and developing sophisticated narratives that expose adversaries' contradictions. Effective counter-lawfare requires treating international law not as a peripheral concern but as central to national security strategy.

The task ahead is to ensure that legal contestation takes place within a framework that preserves law's capacity to facilitate cooperation and restrain the arbitrary exercise of power. This is the challenge of our time: to prevent lawfare from destroying the very legal order upon which international stability depends.